

SENATE BILL 1734

By Tate

AN ACT to amend Tennessee Code Annotated, Title 7;
Title 39; Title 40; Title 41 and Title 55, relative to
biased-base policing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 68, is amended by designating the existing sections of the chapter as a new part 1, and is further amended by adding the following language as a new part 2:

7-68-201.

As used in this part, unless the context otherwise requires:

(1) "Biased-based policing":

(A) Means the practice of a law enforcement agent or agency relying, to any degree, on actual or perceived race, ethnicity, national origin, immigration or citizenship status, sexual orientation, gender identity or religion in selecting which individual to subject to routine or spontaneous law enforcement activities or in deciding upon the scope and substance of law enforcement activity following the initial contact;

(B) Includes use of racial or ethnic stereotypes as factors in selecting whom to stop and search; and

(C) Does not include reliance on trustworthy individualized information, relevant to the locality and timeframe, that links a person of a particular race, ethnicity, national origin, sexual orientation, gender identity, or religion to an identified criminal incident or scheme;

(2) “Law enforcement activity” means the following activities as performed by a law enforcement agent:

- (A) Non-custodial questioning;
- (B) Interviews;
- (C) Traffic stops;
- (D) Check point or roadblock stops;
- (E) Pedestrian stops;
- (F) Frisks and other types of body searches;
- (G) Consensual or nonconsensual searches of the persons, property, or possessions, including vehicles, of individuals using any form of public or private transportation, including motorists, vehicle passengers, and pedestrians;
- (H) Home searches;
- (I) Contact with potential victims of and witnesses to crimes; or
- (J) Such other types of law enforcement encounters;

(3) “Law enforcement agency” means any state or local law enforcement agency or other governmental entity engaged in the prevention, detection, or investigation of violations of criminal or civil laws; and

(4) “Law enforcement agent” means any state or local official responsible for enforcing criminal or civil laws, including but not limited to police officers and other agents of a law enforcement agency.

7-68-202.

(a) No law enforcement agent or agency shall engage in biased-based policing.

(b) No law enforcement agent or agency may detain an individual based on any noncriminal factor or combination of noncriminal factors, unless pursuant to court order.

(c) No law enforcement agent or agency shall use agency monies, equipment or personnel for the purpose of detecting or apprehending persons whose only violation of law is being noncitizens residing in the United State in violation of federal immigration laws, except as otherwise required by federal law.

7-68-203.

(a)

(1) The state, an individual injured by biased-based policing, or an organization whose interests are germane to this part may enforce this part in a civil action for declaratory or injunctive relief, filed in a state court of general jurisdiction.

(2) If an individual has been the victim of conduct prohibited under § 7-68-202, the individual shall have a civil cause of action in a state court of general jurisdiction against the law enforcement agent or agency, or both, and shall be entitled to recover damages if it is determined by the court that such agent or agency engaged in conduct prohibited under § 7-68-202.

(b) In any action brought under this part, relief may be obtained against:

(1) Any law enforcement agency that employs a law enforcement agent who engages in biased-based policing;

(2) Any agent of such law enforcement agency who engages in biased-based policing; or

(3) Any person with supervisory authority over such agent.

(c) Proof that the routine or spontaneous investigatory activities of law enforcement agents in a jurisdiction have had a disparate impact based on race, ethnicity, national origin, immigration or citizenship status, sexual orientation, gender identity, or religion, shall constitute prima facie evidence of a violation of this part.

(d) In any action or proceeding to enforce this part against any law enforcement agency, the court may allow a prevailing plaintiff, other than the state, reasonable attorney's fees as part of the costs, and may include expert fees as part of the attorney's fees.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.